

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 10-18 and 56-89 are pending in the application, with claims 10, 56, 65, 74, 83, 85, 87, and 89 being the independent claims. Claims 10, 56, 62, 65, 72, 74-83, 85, 87, and 88 are sought to be amended. New claim 89 is sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***Rejections under 35 U.S.C. § 101***

Claims 74-82, 87, and 88 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

Independent claims 74 and 87 have each been amended to recite, *inter alia*, a “tangible computer usable medium having stored thereon computer-executable instructions.” This claim feature excludes non-tangible computer usable media, such as carrier waves. Accordingly, claims 74 and 87 are directed to statutory subject matter.

Claims 75-82 and 88 are also directed to statutory subject matter for at least the foregoing reasons with regard to claims 74 and 87, from which they depend, and further in view of their own respective features. Applicants therefore respectfully request the

reconsideration and withdrawal of the rejection of claims 74-82, 87, and 88 under 35 U.S.C. § 101.

***Rejections under 35 U.S.C. § 112***

Claims 74-82, 87, and 88 were rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement. The Examiner argues that the claim feature, “a computer program product comprising a computer usable medium having computer program logic recorded thereon,” was not “described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.” (Office Action, pp. 5-6).

It would be clear to one skilled in the relevant art that the inventors had possession of the claimed invention at the time the application was filed upon reading, by way of example and not limitation, at least paragraphs [0227]-[0230] of the instant Published Specification.

The Examiner is reminded that “[t]he subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.” (M.P.E.P. § 2163.02). The claim language that is the subject of this rejection, to the extent of any inclusion of subject matter, limitations, or terminology not present in the application as filed, does not involve “a departure from, addition to, or deletion from the disclosure of the application as filed.” (M.P.E.P. § 2163.02).

Accordingly, the Examiner has failed to state valid grounds for the written description rejection. Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 74-82, 87, and 88 under 35 U.S.C. § 112, first paragraph.

***Rejections under 35 U.S.C. § 102***

Claims 10, 56, 65, and 74 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Publication No. 2005/0091056 to Surace et al. (“Surace”). Applicants respectfully traverse this rejection.

Claim 10 recites, *inter alia*, “presenting an input interface to enable the user to specify individual character traits” and “storing ... the specified character traits in a user profile having preference information for the user.”

In rejecting claim 10, the Examiner cites to two different processes in Surace as allegedly disclosing “presenting an input interface to enable the user to specify individual character traits.” The first process is concerned with the ***implementation*** of a voice user-interface, enabling an implementer (or developer) of the system to define a personality type, including such characteristics as “age, gender, education, employment history, and current employment position.” (Surace at [0043]). The Examiner then conflates the ***developer*** of the Surace system with the ***subscriber*** of the Surace system, citing to the process whereby a subscriber is able to select “from several different personalities when selecting a virtual assistant” by “interview[ing] virtual assistants with different personalities.” (Surace at [0013]).

It appears that the Examiner wishes to treat both the developer and the subscriber of the Surace system as the “user” of claim 10. The Examiner then takes this one step further, and argues that “storing the specified character traits in a user profile having preference information for the user” is also disclosed by Surace, arguing that the “user” of claim 10 is the “actor” of Surace. (Office Action, p. 7).

Through the Examiner’s overloading of the term “user” of claim 10 to mean three separate entities (the developer, subscriber, and actor of Surace), it is clear that Surace does not anticipate claim 10. It is clear from Claim 10 that the same entity, the “user,” is both the entity that specifies the individual character traits, and the entity associated with the “user profile” which additionally contains preference information for the user. Since Surace does not disclose or suggest this feature, it cannot anticipate claim 10.

Under M.P.E.P. 2143.03, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” (M.P.E.P. 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 1385)). The Examiner fails to consider many of the words in the claim feature “storing ... the specified character traits in a user profile having preference information for the user” in establishing this rejection. If the “user” associated with the “user profile” is in fact an “actor” in Surace, the Examiner does not consider what the actor’s profile might be, nor what kind of preference information might be associated with an actor.

In the Response to Arguments, the Examiner attempts to clarify that “the developer stores the selected personality type on a profile and then virtual host is generated using the selected personality type (see page 12, paragraphs 0145-0147, 0149).” (Office Action, p. 3).

Paragraph [0145] of Surace is directed to selecting an actor based on their voice characteristics, and is not the same as “*storing ... the specified character traits in a user profile having preference information for the user.*”

Paragraph [0146] of Surace is directed to reading and recording the scripts by an actor, and is not the same as “*storing ... the specified character traits in a user profile having preference information for the user.*”

Paragraph [0147] of Surace is directed to the coaching of actors by a director, and is not the same as “*storing ... the specified character traits in a user profile having preference information for the user.*”

Paragraph [0149] of Surace is directed to selecting a specific prompt based on, for example, the “personality type of [the] voice user interface.” However, as noted above, a subscriber of Surace never selects the individual “character traits” and rather is only able to select “from several different personalities when selecting a virtual assistant” by “interview[ing] virtual assistants with different personalities.” (Surace at [0013]). This is not the same as “*storing ... the specified character traits in a user profile.*” Moreover, paragraph [0149] merely states that “[t]he selection of an appropriate specific prompt can be based on various factors,” and says nothing of these factors being stored “in a user profile having preference information for the user.” Accordingly, the disclosure of paragraph [0149] of Surace is not the same as “*storing ... the specified character traits in a user profile having preference information for the user.*”

It is therefore clear that in Surace there is no single entity which corresponds to the “user” of claim 10. Accordingly, Surace does not disclose or suggest at least “presenting an input interface to enable *the user* to specify individual character traits”

and “storing ... the specified character traits in a *user profile* having preference information for *the user*.”

Claims 65, and 74 have been rejected on similar grounds as claim 10, and are also not anticipated by Surace for at least the same reasons advanced with regard to claim 10.

Claim 56 has been amended to further clarify the distinctions discussed above with regard to claim 10. Claim 56, as amended, recites a method comprising:

receiving specified individual character traits from a communication device associated with a login identifier;

determining a consistent personality based on the specified character traits;

storing, at a computing device, the specified character traits in a profile corresponding to the login identifier;

adjusting one or more interface features of a virtual host associated with the login identifier based on adjustments defined by the consistent personality; and

sending a dialogue to the communication device using a conversational style consistent with the adjusted one or more interface features.

There is no single entity in Surace which can be associated with the login identifier of claim 56. Although an *implementer* (or developer) of the Surace system is able to define a personality type, including such characteristics as “age, gender, education, employment history, and current employment position,” (Surace at [0043]) these characteristics are not received “from a communication device associated with a login identifier,” as recited in claim 56. The implementer of the Surace system does not then likewise have a “profile corresponding to the login identifier” in which such

characteristics are stored, as there is no indication that an implementer of the Surace system would have a login identifier for this purpose at all.

Moreover, Surace does not disclose or suggest “receiving specified individual character traits from a communication device associated with a login identifier” where the ***subscriber*** is associated with the login identifier. Only the implementer of Surace is able to define a personality type. The subscriber of Surace never selects the individual “character traits.” Rather, the subscriber is only able to select “from several different personalities when selecting a virtual assistant” by “interview[ing] virtual assistants with different personalities.” (Surace at [0013]).

Therefore, the Examiner’s rejection demands that multiple entities in Surace act in concert to perform the method of claim 56, such that it cannot be the case that Surace discloses or suggests a single “login identifier” as used throughout claim 56.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the rejection of claims 10, 56, 65, and 74 under 35 U.S.C. § 102(e).

***Rejections under 35 U.S.C. § 103***

Claims 11, 57, 66, and 75 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 6,301,339 to Staples *et al.* (“Staples”). Claims 12, 58, 67, and 76 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 5,189,702 to Sakurai *et al.* (“Sakurai”). Claims 13, 59, 68 and 77 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 5,768,508 to Eikeland

(“Eikeland”). Claims 14, 60, 69, and 78 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 5,911,043 to Duffy *et al.* (“Duffy”). Claims 15, 61, 70 and 79 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 6,366,882 to Bijl *et al.* (“Bijl”). Claims 16-18, 62-64, 71-73 and 80-82 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 4,531,184 to Wigan *et al.* (“Wigan”). Applicants respectfully traverse these rejections.

Staples, Sakurai, Eikeland, Duffy, Bijl, and Wigan do not overcome the deficiencies of Surace relative to independent claims 10, 56, 65, and 74 described above. Claims 11-18 depend from claim 10; claims 57-64 depend from claim 56; claims 66-73 depend from claim 65; and claims 75-82 depend from claim 74. For at least these reasons, and further in view of their own features, claims 11-18, 57-64, 66-73, and 75-82 are patentable over Surace, Staples, Sakurai, Eikeland, Duffy, Bijl, and Wigan. Reconsideration and withdrawal of the rejections is therefore respectfully requested.

Claims 83-88 have been rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Surace in view of U.S. Patent No. 4,964,077 to Eisen *et al.* (“Eisen”). Independent claim 83 recites, *inter alia*, “presenting an input interface to enable the user to specify individual character traits” and “storing ... the specified character traits in a user profile including user interaction history information.” Independent claim 85 recites, *inter alia*, “a receiving module configured to receive individual character traits” and “a storing module configured to store the specified character traits in a profile that includes interaction history information within the memory.” Independent claim 87



recites, *inter alia*, “receiving specified individual character traits” and “storing the specified character traits in a profile having preference information.”

As noted above with regard to independent claim 10, Surace does not teach or suggest the aforementioned features of independent claims 83, 85, and 87. Eisen does not teach or suggest, and is not used by the Examiner to teach or suggest, the missing feature. Accordingly, claims 83, 85, and 87 are patentable over Surace and Eisen. Claims 84, 86, and 88 depend from claims 83, 85, and 87, respectively, and are also patentable over Surace and Eisen for at least the same reasons as claims 83, 85, and 87, and further in view of their own respective features. Reconsideration and withdrawal of the rejections is therefore respectfully requested.

***New Claim***

Applicants seek entry of new claim 89. Claim 89 recites similar features as claim 74, using analogous language, and is therefore in condition for allowance for similar reasons as those provided above. Accordingly, Applicants respectfully request entry and allowance of claim 89.

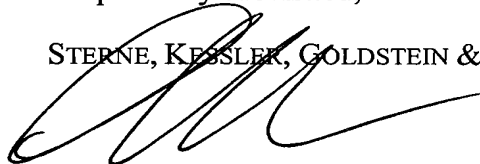
***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Edward J. Kessler  
Attorney for Applicants  
Registration No. 25,688

Date: 17 June 2009

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600